

Remarks

Claim 1 has been amended to incorporate the limitation of claim 9 therein (i.e., that the transition metal is iron) and, consequently, claim 9 has been cancelled. In addition, new claims 19-34 have been added. New independent claim 19 corresponds to pending claim 1, except that the method has been limited to treatment of soil or groundwater. New claims 19-34 correspond to pending claims 3-8 and 10-18 respectively. Consequently, no new matter has been added as a consequence of this amendment.

In the outstanding Office Action, claims 1-7, 9-12 and 14-17 stand provisionally rejected under the judicially created doctrine of double patenting in view of copending application 10/565,564. Applicants note the provisional nature of this rejection and will respond appropriately if non-patentably distinct claims are granted in both applications.

In addition, claims 1-7, 12 and 16 stand rejected under 35 as being anticipated by Rounds et al (US Patent 6,120,698); and claims 8, 14, 15 and 17 stand rejected as being unpatentable over Rounds et al in view of Hoag et al (US Patent 6,019,548). These grounds of rejection are respectfully traversed and reconsideration requested in light of the present amendments and the arguments presented below.

Preliminarily, applicants note that claims 9-11 and 18 stand objected to as being allowable but dependent on a rejected base claim. In this regard, applicants note that claim 1 has been amended to incorporate all the limitations of claim 9, and that claim 9 had no other intervening dependencies. Therefore, claim 1 as amended corresponds to claim 9 in independent form and is therefore in form for allowance. Moreover, because pending claims 2-8, 10-12 and 14-18 are all directly or indirectly dependent upon claim 1, it is urged that these narrower claims are also in form for allowance.

New claim 19 corresponds to original claim 1, except that the claimed method has been limited to the treatment of soil or groundwater. Consequently, it is respectfully submitted that this claim is not anticipated by Rounds et al, as Rounds is directed to the treatment of water or wastewater (see Column 1, lines 5-7), and does not suggest or disclose the treatment of soil or groundwater.

Further, it is urged that claim 19 is not suggested by the disclosure of Rounds et al. Although Rounds et al does disclose the use of copper EDTA (at Column 3, lines 62-62), such compound is used as an algicide, and not to activate the oxidizer/clarifier compound (persulfate).

Rounds et al contains no suggestion or disclosure that the algicide would interact with the oxidizer/clarifier in any way. Applicants submit that one of skill in the art would have no motivation to employ an algicide in a situation where the need to control algae would not be expected to be an issue – e.g., the remediation of soil or groundwater contaminated with organic chemicals. Accordingly, as one of skill in the art would have no motivation to employ copper EDTA, or any other algaeicide, to oxidize organic compounds present in soil or groundwater, it is apparent that Rounds et al does not suggest the method of new claim 19. Because Rounds does not disclose or suggest this independent claim, it is urged that such publication does not suggest or disclose new claims 20-34 which are dependent upon, and therefore narrower than, claim 19.

Pending claims 8, 14, 15 and 17 (which correspond to new claims 25, 30, 31 and 33 respectively) stand rejected as being obvious over Rounds et al in view of Hoag et al. Hoag et al does disclose the addition of permanganate and persulfate either sequentially or together to remediate contaminated soil. However, Hoag et al does not anywhere suggest the use of a chelated transition metal to activate the persulfate. Further, Hoag et al does not provide any motivation to one of skill in the art to add an algicide to aid in such remediation. Consequently, it is submitted that Hoag et al – like Rounds et al – provides no motivation to employ a chelated transition metal in order to activate the persulfate.

In light of the foregoing, it is respectfully urged that the present claims are patentable over the cited publications. Reconsideration of the rejection of such claims is respectfully requested, and allowance thereof courteously solicited.

Respectfully submitted,

August 7, 2008

/John M. Sheehan, Reg. No. 26,065/

John M. Sheehan
Reg. No. 26,065
Phone: (215) 299-6966

Correspondence address:
Patent Administrator
FMC Corporation
1735 Market Street
Philadelphia, PA 19103